

Application No.: 10/633,107

BEST AVAILABLE COPY Docket No. P-5315C1**REMARKS**

Claims 1-23 are pending in this application. The amendments made herein to the specification do not incorporate new matter into the application as originally filed. Support for the amendments can be found in the drawings and throughout the specification and claims as originally filed.

Oath/Declaration:

The Examiner has indicated that the Oath or Declaration is defective because of a typographical error in referencing the parent patent application number, "10/199,4123" has been typed instead of "10/199,412". A new Declaration properly referring to the parent patent application number is included with this Amendment.

Specification:

The References to Related Applications section has been updated to reflect the abandonment of the parent patent application.

Claim Rejections under 35 U.S.C. §112:

The Examiner has indicated that no support in the specification is found for describing the third leg of the locking element as being "pivotably attached" to the base locking element. The Examiner indicates that this term can be inserted into the specification for antecedent support since it was described in the original claims.

The Applicant has amended paragraph [0026] along the lines suggested by the Examiner. Accordingly, Applicants request withdrawal of the rejection of claims 5 and 6 under 35 U.S.C. §112:

Claim Rejections under 35 U.S.C. 102:

Claims 1-23 have been rejected under 35 U.S.C. §102(e) as being clearly anticipated by Schoenfeld et al., U.S. 6,283,941 (hereinafter "Schoenfeld"). The Examiner indicates, among other things that Schoenfeld teaches a spring type fit on tab 110 of Figure 10, and this is the same spring type fit described by the third leg 68 of the Applicant's locking element.

All of the Applicant's claims clearly require a spring element, spring member, or means for urging one or more barbs on the locking element towards the inside surface of the

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barrel. The claimed structure is clearly illustrated by the preferred embodiment in the figures. Attention is called to Fig. 7 where it can be seen that the spring element urges the barbs toward the inside surface of the barrel. The spring element in this embodiment is a cantilevered element which contacts inside surface 24 of the barrel and flexes from its connection to base 56 of the locking element to urge the barbs on the locking element toward the inside surface of the barrel.

On the other hand, Schoenfeld teaches a locking spring 40 positioned on one of a plurality of ratchet teeth 30 of plunger member 14. Schoenfeld teaches, for example, in Figs. 9, 10 and 11, a hollow six-sided spring element with one side open. Schoenfeld indicates that the spring clip is preferably a resilient metal, single sheath and thickness of stainless steel. "The material must be resilient such that it can be spread apart (by the manufacturer) for initial placement around the particular selected ratchet tooth 30 and, yet, after placement on the plunger member, the locking spring 40 springs back to its original dimensions and configuration." (Col. 16, lines 5-58) "After initial placement, the spring member cannot become dislodged from the plunger due to the dimensioning of the open end of the locking clip in comparison to the diameter D1 of the ratchet teeth . . ." (Col. 16, lines 63-66) Schoenfeld does not have a locking element as claimed by the Applicants. This fact is readily apparent by comparing Fig. 7 of the Applicant's drawings to Fig. 11 of Schoenfeld. Applicant's drawing clearly shows the spring element pressing against the barrel to urge the barbs into the inside surface of the barrel while Schoenfeld has no such structure.

The Examiner takes the position that semi-circular tab 110 of Schoenfeld anticipates the Applicant's claimed structure relating to the spring element which in the preferred embodiment includes the third leg of the locking element. Schoenfeld's primary teaching regarding resiliency is described hereinabove. With respect to semi-circular tab 110, Schoenfeld indicates that "(i)t counterbalances tab 80 and further prevents jamming of the clip during plunger movement.... (and that) tab 110 provides for smooth distal movement of the plunger and clip without scraping the inside surface of the barrel." (Col. 18, lines 66-67, and Col. 19, lines 1-3) The Applicants' spring element urges the barbs of the locking element toward the inside surface of the barrel while it appears that Schoenfeld teaches that semi-circular tab 110 is intended to prevent unwanted scraping of the inside surface of the barrel. The Applicant's locking element contacts the inside surface of the barrel and urges the barbs

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of the locking element toward the inside surface of the barrel, while Schoenfeld's semi-circular tab 110 does neither.

It is settled case law that unless all of the same elements are found in exactly the same situation and united in the same way to perform an identical function in a single prior art reference there is no anticipation. Clearly, there is no anticipation of the Applicant's claims based on Schoenfeld.

Accordingly, based on the arguments made hereinabove, the Applicants respectfully request the withdrawal of the rejection of Claims 1-23 based on 35 U.S.C. 102(e) using Schoenfeld as a reference.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone Applicant's Attorney at (201) 847-7115 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 02-1666 therefor.

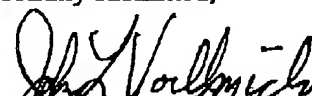
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Respectfully submitted,

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